

301 KAR 1:122

Importation, possession, and prohibited aquatic species

This administrative regulation establishes the species of aquatic organisms that are allowed to be possessed and those that are prohibited in the Commonwealth.

Significant Changes

This amendment will add the round goby (*Neogobius melanostomus*) to the list of organisms that shall not be imported, bought, sold or possessed in aquaria.

1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 1:122. Importation, possession, and prohibited aquatic species.

5 RELATES TO: KRS 150.180

6 STATUTORY AUTHORITY: KRS 150.025(1)(c), 150.280(2)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(c) authorizes the
8 department to promulgate administrative regulations regarding the buying, selling, or
9 transporting of fish and wildlife. KRS 150.280(2) authorizes the department to promulgate
10 administrative regulations prohibiting the holding or transporting of species potentially damaging
11 to native ecosystems. This administrative regulation establishes the species of aquatic life which
12 are prohibited in the Commonwealth.

13 Section 1. A person shall not buy, sell, possess, import, or release any aquatic species not native
14 or established in Kentucky waters, except as established [~~specified~~] in Sections 2, 4, or 5 of this
15 administrative regulation.

16 Section 2. Exceptions. (1) A person may buy, sell, import, or possess aquarium species, except
17 those established [~~specified~~] in Section 3 of this administrative regulation, but shall not release
18 the species into Kentucky waters.

19 (2) A person may buy, sell, import, or possess sterile, triploid grass carp (*Ctenopharyngodon*
20 *idella*) pursuant to [~~but shall comply with the requirements of~~] 301 KAR 1:171.

21 (3) A fertile, diploid grass carp may only be imported or possessed by a certified propagator for

the exclusive purpose of producing triploid grass carp.

Section 3. The ~~[following]~~ live aquatic organisms established in subsections (1) through (7) of this section shall not be imported, bought, sold, or possessed in aquaria:

(1) Subfamily Serrasalminae - piranha, piraya, pirae, or tiger characins;

(2) *Astyanax mexicanus* - Mexican banded tetra, Mexican minnow or Mexican tetra;

(3) *Petromyzon marinus* - sea lamprey;

(4) Genus *Clarias* - walking catfish;

(5) Genus *Channa* - snakeheads of Asia and Africa; ~~[et]~~

(6) *Dreissena polymorpha* - zebra mussel; or

(7) *Neogobius melanostomus* – round goby.

Section 4. Asian carp. (1) A person shall not buy, sell, import, transport, or release the ~~[following]~~ live Asian carp species established in paragraphs (a) through (d) of this subsection:

(a) *Hypophthalmichthys molitrix* – silver carp;

(b) *Hypophthalmichthys nobilis* – bighead carp;

(c) *Mylopharyngodon piceus* – black carp; or

(d) *Ctenopharyngodon idella* – grass carp, except as established in Section 2(2) and (3) of this administrative regulation.

(2) A licensed commercial fisherman shall be permitted to possess, sell, and transport the species of Asian carp established ~~[listed]~~ in Section 4(1) of this administrative regulation if the Asian carp are:


(a) Not being transported in water;

(b) Moribund; and

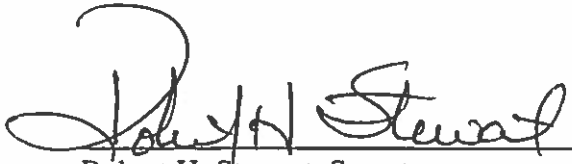
(c) Being transported to a fish processing facility.

1 Section 5. Commissioner Approval. The commissioner may permit the importation of a banned
2 aquatic species if the applicant demonstrates that the species shall be used for legitimate
3 scientific or educational purposes.

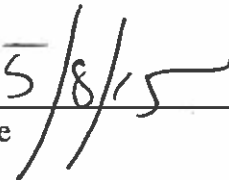
Approved by the Fish and Wildlife Commission.



Gregory K. Johnson, Commissioner
Department of Fish and Wildlife Resources



Robert H. Stewart, Secretary
Tourism, Arts and Heritage Cabinet



Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2015, at 1 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by June 30, 2015.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack
Department of Fish and Wildlife Resources
Arnold L. Mitchell Building
#1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-3400 FAX (502) 564-9136
Email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 1:122. Importation, possession, and prohibited aquatic species.
Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the species of aquatic organisms that are allowed to be possessed and those that are prohibited in the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to prevent the spread of exotic invasive species that can damage aquatic ecosystems.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1)(c) authorizes the Department to promulgate administrative regulations regarding the buying, selling, or transporting of fish and wildlife. KRS 150.280(2) authorizes the department to promulgate administrative regulations prohibiting the holding or transporting of species potentially damaging to native ecosystems.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the effective administration of the statutes by identifying aquatic species that are prohibited in the Commonwealth to protect Kentucky's native fish populations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will add the round goby (*Neogobius melanostomus*) to the list of organisms that shall not be imported, bought, sold or possessed in aquaria.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to prevent the expansion of round goby populations into Kentucky. The round goby is an aggressive invasive fish species which has the potential to negatively affect Kentucky's native fish populations if released into the wild from aquaria or through use as live fishing bait.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals who have interest in importing, buying, selling or possessing round goby in Kentucky will be affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each of the regulated entities will not be allowed to import, buy, sell or possess round goby in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the entities identified in question

(3) as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with these regulations, all entities will ensure the long-term survival of native fish populations in Kentucky.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no cost initially to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: It will not be necessary to increase fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees will be directly or indirectly increased.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied because all entities will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 301 KAR 1:122
Contact Person: Rose Mack
Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Fisheries and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1)(c) authorizes the Department to promulgate administrative regulations regarding the buying, selling, or transporting of fish and wildlife. KRS 150.280(2) authorizes the department to promulgate administrative regulations prohibiting the holding or transporting of species potentially damaging to native ecosystems.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not directly generate revenue for state or local governments in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not directly generate revenue for the state or local governments in subsequent years.

(c) How much will it cost to administer this program for the first year? No cost will be incurred for the first year as the Department's Law Enforcement Division already enforces the regulation.

(d) How much will it cost to administer this program for subsequent years? No additional cost will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: